



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,443	05/23/2006	Joachim Moormann	RO4245US (#90568)	2527

28672 7590 07/06/2011
D. PETER HOCHBERG CO. L.P.A.
1940 EAST 6TH STREET
CLEVELAND, OH 44114

EXAMINER

CLAYTOR, DEIRDRE RENEE

ART UNIT	PAPER NUMBER
----------	--------------

1627

MAIL DATE	DELIVERY MODE
-----------	---------------

07/06/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/580,443	Applicant(s) MOORMANN ET AL.
	Examiner Renee Claytor	Art Unit 1627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 1-6, 16, 17, 21 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-15, 18-20, 23-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| <p>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application</p> <p>6) <input type="checkbox"/> Other: _____.</p> |
|--|---|

DETAILED ACTION

Request for Continued Examination

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/25/2010 has been entered.

Response to Arguments

It is noted that Applicant has checked the box that arguments were previously submitted on July 7, 2010 in the RCE Transmittal form. An Advisory Action mailed on 8/2/2010 addressed those arguments and will be reiterated below.

Applicant's argue over the 35 USC 102 (b) rejection over Vonin et al. In particular, it is argued that schizophrenic psychosis is a disease that is fundamentally different from schizophrenia. Applicants define schizophrenic psychosis as a distortion of reality and disturbances of thought and language, as well as withdrawal from social contacts as well as the blocking of thought processes, disorders of emotional life and drive, loss of reality and the "ego disorder". Applicants have argued that Vonin et al. fails to teach or describe the treatment of schizophrenic psychosis.

It is unclear how schizophrenic psychosis is distinct from schizophrenia. Schizophrenic psychosis could be deemed a symptom of schizophrenia because all of

Art Unit: 1627

the symptoms listed above (described by Applicant) are all symptoms of schizophrenia. A review through the literature does not show that schizophrenic psychosis as defined by Applicant is a fundamentally different disorder from schizophrenia. Though Vonin et al. does not use the term schizophrenic psychosis, Vonin does teach that the patient population as schizophrenic and as a whole involved a decreased or absent initiative and emotional detachment with quantitatively and qualitatively impoverished speech which was observed in conjunction with an inadequately stimulated activity level which overlaps with the definition of schizophrenic psychosis provided by Applicants (page 3, last full paragraph).

Applicants present arguments regarding the mechanism of action of schizophrenic psychosis to distinguish it from the mechanism of action taught in Vonin et al. Applicants arguments are noted; however, the claims are drawn to a method of treating schizophrenic psychosis (which the Examiner has established overlaps with schizophrenia) comprising administration of deoxyepigallocatechin gallate. The mechanism of action is not a patentable distinction.

Applicants present arguments over the 35 USC 103 rejection over Vonin et al. in view of Opitz et al. In particular, Applicant's put forth the same arguments over Vonin et al. which were addressed above. Applicants present an article by Gamaleia; however, the article was not provided and therefore cannot be considered. Applicants further argue that a medical treatment of schizophrenia being accompanied with apathoabulic symptoms, it would be advised to enhance dopamine catabolism. Again, the arguments

Art Unit: 1627

presented are considered; however, the arguments are addressing mechanism of action which is not a patentable distinction.

Because Applicant's did not present amendments or new arguments, the following rejection is being made final.

Claim Rejections – 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 7 rejected under 35 U.S.C. 102(b) as being anticipated by Vonin et al. (Stvo Meditsina; Moscow, Russia; Vo. 91, No. 2 (Feb. 1991), pages 111-115).

Vonin et al. teach the treatment of schizophrenic patients with deoxypeganine (see Abstract, and page 115).

Claim Rejections – 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-15, 18-20 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vonin et al. (Stvo Meditsina; Moscow, Russia; Vo. 91, No. 2 (Feb.

Art Unit: 1627

1991), pages 111-115) as applied to claim 7 above and in view of Opitz et al. (US Pg-Pub 2004/0132751)

Vonin et al. teaches the treatment of schizophrenic patients with deoxypeganine.

Vonin et al. does not teach a daily dose, the proportions of the active substance in a pharmaceutical, route of administration.

Opitz et al. teaches the use of deoxypeganine for the treatment of disorders of CNS, including psychiatric symptoms (paragraph 0001). It is taught that deoxypeganine can be used in its free base form or as an acid addition salt, with preferred salt being deoxypeganine hydrochloride and hydrobromide (paragraph 0015). Opitz et al. teaches that deoxypeganine is administered in a pharmaceutical preparation which contains the agent in proportions of from 0.1 to 90% by weight calculated as free deoxypeganine (paragraph 0016). The daily dose is in the range from 0.1 to 100 mg (paragraph 0017). It is taught that deoxypeganine can be administered orally, parenterally, as a depot medicament (paragraph 0031) and transdermally (paragraph 0031).

Regarding the claims limitation of administration of the deoxypeganine being in the form of a derivative, as in claim 15, it is noted that the derivatives are structurally analogous to deoxypeganine and will have the same property of inhibiting both acetylcholinesterase and monoamine oxidase, absent a showing of unexpected results.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renee Claytor whose telephone number is (571)272-8394. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Renee Claytor

/SREENI PADMANABHAN/
Supervisory Patent Examiner, Art Unit 1627